

REMARKS

Claims 1 and 3-5 are pending. Claim 5 has been amended herein. Support for the amendment is set forth below.

Applicants' Response to Claim Rejections under 35 U.S.C. §103:

Claims 1 and 3-5 stand rejected under 35 U.S.C. §103 as being unpatentable over **Eybergen**. Specifically, the current Office Action asserts that the plate 34 of **Eybergen** would inherently limit the ability of the valve to travel and the disclosure inherently meets the language of the flow rate corresponding to the set tonnage. Further in regard to the flow rate to set tonnage, it is maintained that this feature may be obtained using common knowledge and without the benefit of Applicants' disclosure. Applicants respectfully traverse on both points.

First, in order for a claimed element to be inherent all the limitations of the claim must be present. In the current instance the Office Action states that since the plate 34 is drawn as capable of resting on the lower housing it therefore does. However, there is no teaching which would facilitate that the plate rests on the housing to define maximum valve lift. Instead, **Eybergen** clearly demonstrates that the "spring 36 is registered against the undersurface of plate 34." See col. 3, lines 16-17. This spring 36 is the equivalent to the holder 22 which effects the downward (opening) movement of the valve by offering resistance to the plate 34. Wherefore applicants submit that the plate is clearly shown as not reaching the housing because of the spring.

Second, in regard to the flow rate to tonnage ratio in applicants' claims, the Office Action states that setting this value would be within the skill of one in the art. However, there is no teaching or motivation in the prior art which would lead the skilled artisan to set the ratio to the claimed value. Further, there is criticality to the claimed range of 1.0 to 1.4. Applicants clearly demonstrate from page 12, line 9 to page 13, line 23 and corresponding Figs. 2-4 that setting the value within this range decreases the noise immediately after start up. The Office Action does not point to any disclosure in the prior art which demonstrate that the relationship between the flow rate to the designated tonnage effects noise levels. Further, the Office Action does not cite to any additional motivations for one of skill in the art to set the ratio as claimed. Therefore, this limitation is not set forth in the prior art.


In regard to claim 5, as discussed above, the housing of **Eybergen** does not abut the center disk 12. In order to clarify the invention applicants have added the limitation that the lower surface of said center disk is only brought into abutment with said inner wall of the housing. **Eybergen** is therefore distinguished based on the housing's lower surface contacting the spring 36.

For at least the foregoing reasons, the claimed invention distinguishes over the cited art and defines patentable subject matter. Favorable reconsideration is earnestly solicited. If the Examiner believes that this application is not now in condition for allowance, the Examiner is requested to contact Applicants' undersigned attorney to arrange for an interview to expedite the disposition of this case.

Amendment Under 37 C.F.R. § 1.116
Serial No. 10/615,838
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If this paper is not timely filed, Applicants respectfully petition for an appropriate extension of time. The fees for such an extension or any other fees that may be due with respect to this paper may be charged to Deposit Account No. 50-2866.

Respectfully submitted,
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Enclosures: Petition for Extension of Time